Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
WAYNE DODD, L.P.T.

Respondent Name
TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number
M4-15-0940-01

Carrier's Austin Representative
Box Number 54

MFDR Date Received
NOVEMBER 18, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Please be advised that RME, Dr. James Hood MD, ordered a Functional Capacity Evaluation for Workers' Comp. claimant, [Claimant], to determine return to work and MMI, IR treatment recommendations for designated Dr. Patrick Downey MD."

Amount in Dispute: $720.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "FUNCTIONAL PERFORMANCE REHAB CONSULTANT argues the RME doctor ordered the functional capacity examination thus relieving it of the requirement to obtain our of network authorization. Yet FUNCTIONAL PERFORMANCE REHAB CONSULTANT did not include with its bill to Texas Mutual the 'order' or referral information for the exam from the RME doctor. Nor did FUNCTIONAL PERFORMANCE REHAB CONSULTANT provide a copy of it with its DWC-60 packet. Absent such evidence no payment is due."

Response Submitted By: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 21, 2014	CPT Code 97750-FC (16 units) Functional Capacity Evaluation (FCE)	$720.00	$720.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 and §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. 28 Texas Administrative Code §127.10, effective September 1, 2012 sets out the provisions for Designated Doctor Examinations.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - A07-Documentation does not meet the level of service required for FCE per rule 134.204(G)3(C).
   - CAC-150-Payer deems the information submitted does not support this level of service.
   - CAC-243-Services not authorized by Network/Primary Care Providers.
   - 727-Provider not approved to treat Texas Star Network claimant.
   - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
   - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
   - 724-No additional payment after a reconsideration of services.
   - CAC-18-Exact duplicate claim/service.
   - 736-Duplicate appeal. Network contract applied by Texas Star Network.

Issues

1. Does the disputed FCE require authorization for services provided to claimant in Texas Star Network?
2. Does the documentation support billing of four hours for FCE?
3. Is the requestor entitled to reimbursement for the FCE rendered on May 16, 2013?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed FCE based upon reason codes "CAC-243," "727," and "736."

   28 Texas Administrative Code §127.10(c) states in part "The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure)."

   The requestor states "Please be advised that RME, Dr. James Hood MD, ordered a Functional Capacity Evaluation for Workers' Comp. claimant, [Claimant], to determine return to work and MMI, IR treatment recommendations for designated Dr. Patrick Downey MD". Because the testing was requested as part of a Designated Doctor examination the service did not require preauthorization per 28 Texas Administrative Code §127.10©.

   The respondent states "FUNCTIONAL PERFORMANCE REHAB CONSULTANT did not include with its bill to Texas Mutual the 'order' or referral information for the exam from the RME doctor… Absent such evidence no payment is due." The requestor submitted a copy of an FCE TESTING ORDER FORM dated July 15, 2014, from Dr. James Hood; therefore, the respondent's denial is not supported.

2. This dispute relates to services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.204.

   On the disputed date of service, the requestor billed CPT code 97750-FC.

   The American Medical Association (AMA) Current Procedural Terminology (CPT) defines CPT code 97750 as "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes."

   The requestor appended modifier "FC" to code 97750. 28 Texas Administrative Code §134.204(n)(3) states "The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. (3) FC, Functional Capacity-This modifier shall be added to CPT Code 97750 when a functional capacity evaluation is performed".

   28 Texas Administrative Code §134.204(g) states "The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be

billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required."

The requestor states in the position summary that the disputed FCE was performed for the Designated Doctor. A review of the submitted medical bill indicates that the requestor billed for sixteen units, which equals four hours; therefore, the requestor did not exceed the four hour limit set in 28 Texas Administrative Code §134.204(g) for Division ordered FCEs.

A review of the submitted FCE report finds that the test began at 12:00pm and ended at 4:00pm for a total of four hours; therefore, the requestor supported billing 16 units.

3. Per 28 Texas Administrative Code §134.204(g) to determine the reimbursement for FCEs the Division refers to 28 Texas Administrative Code §134.203(c)(1)(2).

   Per 28 Texas Administrative Code §134.203(c)(1)(2), the following formula is used to calculate the Maximum Allowable Reimbursement (MAR): (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = MAR.

   The 2014 DWC conversion factor for this service is 55.75.

   The Medicare Conversion Factor is 35.8228.

   Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 78550 which is located in Harlingen, Texas; therefore, the Medicare locality is "Rest of Texas."

   The Medicare participating amount for CPT code 97750 is $32.09.

   Using the above formula, the MAR is $49.94 per unit. The requestor billed for 16 units; therefore, $49.94 X 16 = $799.04. The respondent paid $0.00. The requestor is seeking $720.00; this amount is recommended for reimbursement.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is $720.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $720.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	05/06/2015 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received

by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.